

AMENDED IN ASSEMBLY APRIL 5, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1234**

**Introduced by Assembly Member Salinas**

February 22, 2005

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An act to add Article 2.3 (commencing with Section 53232) and Article 2.4 (commencing with Section 53234) to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, relating to local agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 1234, as amended, Salinas. Local agencies: compensation and ethics.

~~(1) Existing~~

*Existing* law provides for the establishment and operations of cities, counties, cities and counties, districts, and other local government agencies, the composition of their governing bodies, and the payment of governing body members for attending meetings and performing other duties, and prescribes conflicts of interest.

This bill would require a local agency *that provides reimbursement for expenses to members of its legislative body* to adopt a written policy on the duties for which legislative body members may receive compensation, other than meetings of the legislative body or an advisory body or attendance at a conference. The bill would require ~~the~~ *such a* governing body to adopt a written policy concerning what occurrences qualify a member to receive reimbursement of expenses for travel, meals, and lodging and would impose related requirements, including the filing of expense reports, which would be public records.

This bill would also require that *if a local agency provides any type of compensation, salary, or stipend to, or reimburses the expenses of,*

*a member of the legislative body*, each member of ~~a the~~ legislative body of ~~a the~~ local agency, except a member whose term of office ends before January 1, 2007, and each designated employee of ~~a the~~ local agency, employed as of January 1, 2006, receive training in ethical standards of conduct before January 1, 2007, as specified. ~~By imposing these requirements on local agencies, this bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes-no~~. State-mandated local program: ~~yes-no~~.

*The people of the State of California do enact as follows:*

SECTION 1. Article 2.3 (commencing with Section 53232) is added to Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

#### Article 2.3. Compensation

53232. For the purposes of this article, the following terms have the following meanings:

(a) "Conference" has the same meaning as described in paragraph (2) of subdivision (c) of Section 54952.2.

(b) "Governing body" means the board of supervisors in the case of a county or a city and county, the city council or board of trustees in the case of a city, and the board of directors or other governing body in the case of a district or other public agency.

(c) "Legislative body" has the same meaning as specified in Section 54952.

(d) "Local agency" means a city, county, city and county, charter city, or special district.

(e) "Meeting" has the same meaning as specified in subdivision (a) of Section 54952.2.

1 53232.1. (a) A local agency may pay compensation to  
2 members of a legislative body for attendance at the following  
3 occurrences:

- 4 (1) A meeting of the legislative body.
- 5 (2) A meeting of an advisory body.
- 6 (3) A conference.

7 (b) A local agency may pay compensation for attendance at  
8 occurrences not specified in subdivision (a) only if the governing  
9 body has adopted, in a public meeting, a written policy ~~on the~~  
10 ~~other specific specifying other~~ types of occasions that constitute  
11 the performance of official duties for which a member of the  
12 legislative body may receive payment.

13 (c) Subdivisions (a) and (b) apply to any local agency that is  
14 otherwise authorized, by law, to pay compensation to members  
15 of a legislative body on the basis of a fixed daily amount for  
16 attendance at meetings or performance of official duties on  
17 behalf of the agency. If a local agency is otherwise authorized, in  
18 statute, or has enacted an ordinance to provide that a member of  
19 the legislative body shall receive a salary, then subdivisions (a)  
20 and (b) do not apply to that member.

21 (d) The provisions of this section are additional to any other  
22 laws authorizing payment of compensation to members of  
23 legislative bodies of local agencies.

24 53232.2. (a) A local agency may reimburse members of a  
25 legislative body for actual and necessary expenses incurred in the  
26 performance of official duties.

27 (b) ~~The~~ *If a local agency reimburses members of a legislative*  
28 *body for actual and necessary expenses incurred in the*  
29 *performance of official duties, then the governing body shall*  
30 *adopt a written policy, in a public meeting, specifying the types*  
31 *of occurrences that qualify a member of the legislative body to*  
32 *receive reimbursement of expenses relating to travel, meals, and*  
33 *lodging lodging, and other actual and necessary expenses.*

34 (c) The members of the governing body may adopt a travel  
35 reimbursement policy, in a public meeting, that outlines  
36 procedures and reimbursement rates for meals, lodging, and  
37 travel. If the governing body of a local agency does not adopt a  
38 travel reimbursement policy, the local agency shall use the  
39 Internal Revenue Service rates for reimbursement of meals,

1 lodging, and travel, as established in Publication 463, or any  
2 successor publication.

3 (d) If the lodging is in connection with a conference, lodging  
4 costs shall not exceed the group rate published by the conference  
5 sponsor, *provided that lodging at the group rate is available to*  
6 *the member at the time of booking. If the group rate is not*  
7 *available, the member shall use comparable lodging that is*  
8 *consistent with the requirements of subdivisions (c) and (e).*

9 (e) Members of the legislative body shall use the most  
10 economical mode and class of transportation and lodging  
11 available that is consistent with scheduling needs and cargo  
12 requirements. Members shall use government and group rates for  
13 travel and lodging when available.

14 (f) All expenses that do not fall within the adopted travel  
15 reimbursement policy or the IRS reimbursable rates as provided  
16 in subdivision (a), shall be approved by the governing body, in a  
17 public meeting before the expense is incurred, except as provided  
18 in subdivision (d).

19 (g) *This section shall not supersede any other laws*  
20 *establishing reimbursement rates for local agencies.*

21 53232.3. (a) ~~A~~ *If a local agency reimburses members of a*  
22 *legislative body for actual and necessary expenses incurred in*  
23 *the performance of official duties, then a local agency shall*  
24 *provide expense report forms to be filed by the members of the*  
25 *legislative body for reimbursement for actual and necessary*  
26 *expenses incurred on behalf of the local agency in the*  
27 *performance of official duties. Reimbursable expenses shall*  
28 *include, but not be limited to, meals, lodging, and travel.*

29 (b) Expense reports shall document that expenses meet the  
30 existing policy, *adopted pursuant to Section 53232.2*, for  
31 expenditure of public resources.

32 (c) Members shall submit expense reports within a reasonable  
33 time after incurring the expense, as determined by the legislative  
34 body, and the reports shall be accompanied by the receipts  
35 documenting each expense.

36 (d) Members shall provide brief reports on meetings attended  
37 at the expense of the local agency at the next regular meeting of  
38 the legislative body.

39 (e) All documents related to reimbursable agency expenditures  
40 are public records subject to disclosure under the California

1 Public Records Act (Chapter 3.5 (commencing with Section  
2 6250) of Division 7 of Title 1).

3 53232.4. Penalties for misuse of public resources or falsifying  
4 expense reports in violation of expense reporting policies may  
5 include, but are not limited to, the following:

6 (a) The loss of reimbursement privileges.

7 (b) Responsibility for restitution to the local agency.

8 (c) Prosecution for misuse of public resources, pursuant to  
9 Section 8314 of this code or Section 424 of the Penal Code.

10 SEC. 2. Article 2.4 (commencing with Section 53234) is  
11 added to Chapter 2 of Part 1 of Division 2 of Title 5 of the  
12 Government Code, to read:

13  
14 Article 2.4. Ethics Training

15  
16 53234. For the purposes of this article, the following terms  
17 have the following meanings:

18 (a) "Legislative body" has the same meaning as specified in  
19 Section 54952.

20 (b) "Local agency" means a city, county, city and county,  
21 charter city, or special district.

22 53235. (a) *If a local agency provides any type of*  
23 *compensation, salary, or stipend to a member of a legislative*  
24 *body, or provides reimbursement for actual and necessary*  
25 *expenses incurred by a member of a legislative body in the*  
26 *performance of official duties, then all members of a legislative*  
27 *body and each designated employee shall receive training in*  
28 *ethical standards of conduct pursuant to this article.*

29 (b) Each member of a legislative body of a local agency,  
30 except a member whose term of office ends before January 1,  
31 2007, and each designated employee of a local agency employed  
32 with the agency as of January 1, 2006, shall receive training in  
33 ethical standards of conduct before January 1, 2007.

34 ~~(b)~~

35 (c) Each member of a legislative body and each designated  
36 employee who commences ~~employment~~ service with a local  
37 agency on or after January 1, 2006, shall receive training in  
38 ethical standards of conduct no later than one year from the first  
39 day of ~~employment~~ service with the local agency. Thereafter,  
40 members of a legislative body and designated employees shall

1 receive training in ethical standards of conduct at least once  
2 every two years.

3 ~~(e) The~~

4 *(d) Subject to the provisions of Chapter 9.5 (commencing with*  
5 *Section 3201) of Division 4 of Title 1, the* legislative body of a  
6 local agency shall designate the employees who shall receive  
7 training in ethical standards of conduct for the purposes of this  
8 section.

9 53235.1. (a) A local agency shall provide information on  
10 training available in ethical standards of conduct, that meets the  
11 requirements of this ~~section~~ *article*, to members of its legislative  
12 body and designated employees at least once annually.

13 (b) A local agency may offer a training course in ethical  
14 standards of conduct that meets the requirements of this section.

15 (c) A local agency may identify online courses, conferences,  
16 seminars, or other courses that meet the requirements of this  
17 section.

18 (d) The Fair Political Practices Commission and the Attorney  
19 General shall jointly develop curriculum appropriate for the  
20 training in ethical standards of conduct for members of the  
21 legislative body of a local agency and designated employees.

22 (e) The curriculum for training in ethical standards of conduct  
23 shall include information regarding potential ethical abuses  
24 relating to, but not limited to, all of the following:

25 (1) The direct and indirect business relationships among  
26 members of the legislative body of a local agency, contractors,  
27 and vendors, and between members of the legislative body of a  
28 local agency and officers and employees of other public  
29 agencies.

30 (2) The solicitation of campaign contributions by members of  
31 a legislative body, officers, or employees of a local agency, and  
32 the receipt of contributions from bidders, contractors, and  
33 subcontractors.

34 (3) The use of public resources for a campaign activity, or  
35 personal or other purposes that are not authorized by law.

36 (f) In order to satisfy the requirements of Section 53235,  
37 members of a legislative body and designated employees of a  
38 local agency shall complete training in ethical standards of  
39 conduct that meets the requirements of this section.

(g) *Local agencies not already so approved may apply to the State Bar of California to be certified as Minimum Continuing Legal Education providers in order to permit members of the legislative body and designated employees that are California attorneys to receive Minimum Continuing Legal Education credit for the ethics training provided pursuant to this section. Local agencies may also apply to the State Bar of California to have the education activities provided pursuant to the ethics training described in this article qualify as education in legal ethics pursuant to Section 6070 of the Business and Professions Code.*

53235.2. Notwithstanding Section 53235, a member of a legislative body or a designated employee who serves more than one local agency *that requires ethics training pursuant to this article* shall satisfy the requirements of this article once every two years without regard to the number of local agencies with which he or she is affiliated.

53235.3. (a) A local agency *that requires its legislative body members and designated employees to complete the ethical training prescribed by this article* shall maintain records indicating both of the following:

(1) The dates that members of the legislative body and designated employees satisfied the requirements of this article.

(2) The agency or entity that conducted the training.

(b) Notwithstanding any other provision of law, a local agency shall maintain these records for at least five years after the members of the legislative body and designated employees receive the training. A local agency shall make these records available to the public for inspection.

~~SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~